

§ 1114.27

Each interrogatory should be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection should be stated in lieu of an answer. The answers are to be signed by the person making them and subscribed by an appropriate verification generally in the form prescribed in §1112.9. Objections are to be signed by the representative or counsel making them. The person upon whom the interrogatories have been served shall serve a copy of the answers and objections within the time period designated by the party submitting the interrogatories, but not less than 15 days after the service thereof.

(b) *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit, or inspection of such business records or from a compilation, abstract, or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies thereof, or compilation, abstracts, or summaries therefrom. If information sought is contained in computer runs, punchcards, or tapes which also contain privileged or proprietary information or information the disclosure of which is proscribed by the act, it will be sufficient response under these rules that the person upon whom the interrogatory has been served is willing to make available to and permit an independent professional organization not interested in the proceeding and paid by the party serving the interrogatory to extract from such runs, punchcards, or tapes the information sought in the interrogatory that is not privileged or proprietary information or information the disclosure of which is proscribed by the act.

(c) *Service of interrogatories in those proceedings not requiring a petition.* No written interrogatories shall be served

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within 20 days prior to the date assigned for commencement of hearing or the filing of opening statements of fact and argument under the modified procedure, and when the written interrogatories are to be served in a foreign country, they shall not be served within 40 days prior to such date.

(d) *Limitation under simplified standards.* In a case using the Three-Benchmark methodology, each party is limited to ten interrogatories (including subparts) absent advance authorization from the Board.

[47 FR 49562, Nov. 1, 1982, as amended at 61 FR 52713, Oct. 8, 1996; 72 FR 51377, Sept. 7, 2007]

§ 1114.27 Request for admission.

(a) *Availability; procedures for use.* Subject to the provisions of §1114.21(b)(2), a party may serve upon any other party a written request for the admission, for purposes of the pending proceeding only, of the truth of any matters within the scope of §1114.21 set forth in the request, including the genuineness of any documents described in the request for admission. Copies of documents should be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Each matter of which an admission is requested should be separately set forth. The matter is admitted unless, within a period designated in the request, not less than 15 days after service thereof, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or his representative or counsel. If objection is made, the reasons therefor should be stated. The answer should specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial should fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to

admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for hearing may not, on that ground alone, object to the request; he may, subject to the provisions of § 1114.31, deny the matter or set forth reasons why he cannot admit or deny it.

(b) *Effect of admission.* Any matter admitted under this rule is conclusively established unless upon petition and a showing of good cause the Board enters an order permitting withdrawal or amendment of the admission. Any admission made by a party under this rule is for the purpose of the pending proceeding only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

(c) *Service of written requests for admission in those proceedings not requiring a petition.* No requests for admission should be served within 20 days prior to the date assigned for commencement of hearing or the filing of opening statements of fact and argument under the modified procedure, and when requests for admission are to be served in a foreign country they should not be served within 40 days prior to such date.

[47 FR 49562, Nov. 1, 1982, as amended at 61 FR 52713, Oct. 8, 1996]

§ 1114.28 Depositions, requests for admission, written interrogatories, and responses thereto: inclusion in record.

At the oral hearing, or upon the submission of statements under the modified procedure, depositions, requests for admission and written interrogatories, and respective responses may be offered in evidence by the party at whose instance they were taken. If not offered by such party, they may be offered in whole or in part by any other party. If only part of a deposition, request for admission or written interrogatory, or response thereto is offered in evidence by a party, any other party (where the matter is being heard orally) may require him to introduce all of it which is relevant to the part intro-

duced, and any party may introduce any other parts. Such depositions, requests for admission and written interrogatories, and responses thereto should be admissible in evidence subject to such objections as to competency of the witness, or competency, relevancy, or materiality of the testimony as were noted at the time of their taking or are made at the time they are offered in evidence.

§ 1114.29 Supplementation of responses.

A party who has responded to a request for discovery with a response that was complete when made is under a duty to supplement his response to include information thereafter acquired in the following instances:

(a) A party is under a duty seasonably to supplement his response with respect to any question directly addressed to:

(1) The identity and locations of persons having knowledge of discoverable matters, and

(2) The identity of each person expected to be called as an expert witness at the hearing, the subject matter on which he is expected to testify, and the substance of his testimony.

(b) A party who knows or later learns that his response is incorrect is under a duty seasonably to correct his response.

(c) A duty to supplement responses may be imposed by order, agreement of the parties, or at any time prior to the hearing or the submission of verified statements under the modified procedure through new requests for supplementation of prior responses.

§ 1114.30 Production of documents and records and entry upon land for inspection and other purposes.

(a) *Scope.* Any party may serve on any other party a request:

(1) To produce and permit the party making the request to inspect any designated documents (including writings, drawings, graphs, charts, photographs, phonograph records, tapes, and other data compilations from which information can be obtained, translated, if necessary, with or without the use of detection devices into reasonably usable form), or to inspect and copy, test, or